

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 05-cr-30132-DRH

ANTHONY W. EASTER,

Defendant.

ORDER

HERNDON, Chief Judge:

Before the Court is defendant Anthony W. Easter's motion to have attorney Phillip J. Kavanagh removed from this case (Doc. 101). Defendant filed a motion for retroactive application of sentencing guidelines to crack cocaine offense 18 U.S.C. § 3582 (Doc. 96), and pursuant to this Court's Administrative Order 137, the Federal Public Defender (the "FPD") for the Southern District of Illinois was appointed to represent defendant regarding his motion. Administrative Order 137 directs that "[t]he FPD shall decide specifically which attorney within the office shall individually be assigned which petitions/motions." Further, "[i]f the FPD plans to file an amended petition/motion for reduction, it may do so . . .," but "[i]n cases in which the FPD has been appointed and the FPD determines that the defendant is not entitled to relief, the FDP shall file a motion to withdraw as counsel explaining why the defendant is not entitled to relief." In this instance, the defendant will have fourteen days to respond to the motion.

Here, the FPD has yet to file anything in this case other than his notice of appearance. Nonetheless, defendant states that he “does not want attorney Phillip J. Kavanaugh to represent him because the [d]efendant does not have faith in this attorney and will not serve the [d]efendant in his best interest. The [d]efendant does not trust Mr. Kavanaugh and feels like this attorney will just toss him aside without a fight.” This is not enough reason for the Court to grant defendant’s motion. The defendant is not specific and fails to point out any conflict between he and counsel. Moreover, although the FPD and specifically, Phillip J. Kavanaugh, has been appointed defendant’s counsel, the FPD “shall decide specifically which attorney within the office shall individually be assigned which petitions/motions,” meaning that while Kavanaugh has been appointed and has filed his notice of appearance in this case, he may not actually be assigned to defendant’s case. Another attorney from the FPD may be assigned to determine whether the FPD deems defendant entitled to relief.

IT IS SO ORDERED.

Signed this 8th day of December, 2011.


David R. Herndon
2011.12.08
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Chief Judge
United States District Court